

AN ORDINANCE BY COUNCIL MEMBER CLAIR MULLER

AN ORDINANCE TO AMEND ARTICLE VII OF CHAPTER 74 ENTITLED "RIPARIAN BUFFER REQUIREMENTS"; TO OFFICIALLY CHANGE THE ADMINISTRATING DEPARTMENT TO WATERSHED MANAGEMENT, TO STREAMLINE THE REVIEW PROCESS AND CLARIFY THE PUBLIC NOTICE REQUIREMENTS; AND FOR OTHER PURPOSES.

WHEREAS, in May 2001 the City of Atlanta Council approved the Riparian Buffer Ordinance in an effort to protect water quality and fulfill the requirements of the Metropolitan River Protection Action, and for other purposes; and

WHEREAS, in December 2001, the ordinance was amended to provide stream bank variance procedures to the stream bank buffer requirements and to broaden the purpose of such requirements beyond erosion and sediment control; and

WHEREAS, despite amendments to the ordinance Chapter 74 still refers to the Department of Public Works as the administering entity even though the ordinance is administered by the Department of Watershed Management; and

WHEREAS, the number of building permit applications continues to increase which in turn increases the number of stream buffer variance applications making it more imperative to streamline and clarify the variance application process; and

WHEREAS, with continued growth in the City of Atlanta the need to protect streams and similar bodies of water is as important as it ever has been therefore variance applications need careful and strict professional scrutiny; and

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That all references to *Public Works* be changed to read *Watershed Management*.

SECTION 2. Define "hardship" as an unreasonable economic burden that renders property completely unusable?

SECTION 3. That within Section 74-302. *Definitions, Technical Panel* is amended to read as follow:

Technical panel is a panel comprised of two staff engineers from the Department of Watershed Management who combined have expertise in erosion control and stormwater management and a landscape architect who are designated by the commissioner, and an environmental planner, designated by the commissioner of planning, development and neighborhood conservation, and two law representatives who combined have expertise and training in environmental law and zoning, designated by the city attorney.

SECTION 4. Amend Section 74-306. to make it more protective?

SECTION 5. *Amend Section 74-308. General procedures for stream bank variance applications (d) to read as follows:*

(d) The commissioner is authorized to draft rules of procedure which may assist in the administration of this article but such rules shall not: Reduce any notice requirements; shorten any period specified for public comment or appeal of a decision of the commissioner; reduce the requirements for the granting of applications; and shall be made available to the public upon request.

SECTION 6. *Amend Section 74-310. Advertisement, posting and mailing of notice of application. to read as follows:*

Section 74-310. Posting and mailing of notice of application.

(a) Within five (5) days after a completed application is accepted by the technical panel, the applicant shall cause the application for a stream bank variance to be:

(1) Posted on the property as set forth herein;

(a) A sign not less than six-square feet with the words "Notice of Application for Riparian Buffer Stream Bank Variance" in bold letters not less than four-inches high in a conspicuous place on the effected property so that the sign can be easily viewed from the public street on which the property fronts. In addition, the sign shall contain all information contained in the other notices required by this section. Said sign shall be posted within five (5) days after a completed application is accepted by the technical panel, shall state such date of acceptance and shall not be removed for 20 days from the posting date.

(2) Mailed to the property owners immediately adjacent to the property for which the stream bank variance is requested.

(b) The notices required by this section shall state: The location of the stream bank variance; that public review of the application is available at the office of the commissioner and may be mailed to the NPU upon request for purposes of notification only; shall state that

public comment on the application may be sent to the office of the commissioner and will include the address of said office.

- (c) All public comments must be received within 20 days of the date that a completed application is accepted by the technical panel which is posted on notice of application for variance. All public comments must be timely and must identify the application to which they pertain in order to be made a part of the record to be considered by the technical panel.*

SECTION 7. Amend Section 74-312. *Advertisement, posting and mailing of notice of decision.* shall be changed to read as follows:

Section 74-312. Posting and mailing of notice of decision.

- (a) Within five (5) days after a final decision on an application for stream bank variance, the applicant shall cause a notice of the decision to be*

1. Posted on the property as set forth herein:

a. A sign not less than six-square feet with the words in bold "Notice of Decision on Riparian Buffer Stream Bank Variance" in a conspicuous place on the effected property so that the sign can be easily viewed from the public street on which the property fronts. In addition, the sign shall contain all information contained in the other notices required by this section. Said sign shall be posted within five (5) days after a decision, the date of which must be stated on said sign. The notice of decision shall not be removed for 25 days.

2. Mailed to the property owners immediately adjacent to the property for which the stream bank variance is requested;

3. Sent to the president of the NPU in which the property requesting the application is located for notification purposes only.

- (b) The notices required by this section shall state: The decision on the issuance the stream bank variance; that public review of the record is available at the office of the commissioner; shall state that any appeal of the decision must be made within 30 days of the date of decision which is posted on the notice of decision.*

SECTION 8. Amend Section 74-313. *Judicial review of decisions of commissioner on stream bank variances* to read as follows:

Any person who is dissatisfied with a final decision of the commissioner on the stream bank variance has the right to appeal said decision to the superior court of the county where the property is located. Such appeals shall be filed within 30 days of the date of decision of the commissioner or technical panel posted on the notice of decision.

SECTION 9. That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.